

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mark & Tobi Ellis,

Petitioners-Appellants,

v.

Plymouth County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 10-75-0316

Parcel No. 12-16-130-003

On June 21, 2011, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Mark and Tobi Ellis, were represented by attorney Scott Bixenman with Murphy, Collins, & Bixenman, P.L.C, Le Mars, Iowa. The Plymouth County Board of Review designated County Attorney Darin Raymond as its legal representative. County Assessor Bob Heyderhoff represented the Board at hearing. Both parties participated by phone. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Mark and Tobi Ellis, owners of a commercially classified property located at 24 Plymouth Street SW, Le Mars, Iowa, appeals from the Plymouth County Board of Review regarding their 2010 property assessment. The January 1, 2010, assessment is allocated as follows: \$7820 in land value and \$28,250 in improvement value for a total assessment of \$36,070. This was a change from the 2009 assessment.

The subject property is a two-story, commercial retail property. The improvements include a 2400 square-foot base with a total of 4800 square feet of above-grade building area and a full,

unfinished basement. The improvements were built in 1887 and are rated as “poor” condition on the property record card. The subject site is 0.053 acres.

The Ellises protested their assessment to the Plymouth County Board of Review. On the protest, they contended their property assessment was not equitable with that of like properties under Iowa Code section 441.37(1)(a).

The Board of Review did not change the assessment.

The Ellises then appealed to this Board. They reasserted their original claim and contend the correct value of the property is \$28,500. They also added the following claims: 1) that the property is assessed for more than the value authorized by law under section 441.37(1)(b); 2) that there is an error in the assessment under section 441.37(1)(d); and 3) that there has been a change in value since the last assessment under sections 441.37(1) and 441.35(3). These additional grounds were not pled to the Board of Review and therefore, we have no jurisdiction to consider them. We will only consider the claim that the property assessment is not equitable.

On their protest form to the Board of Review, the Ellises provided three equity comparables. They listed the address, assessment per square foot, and the assessment. At hearing, the property-record card for each of the three equity comparables was submitted as evidence.

Mark Ellis testified that he and his wife purchased the property at auction in 2006. He was made aware the property was for sale by a flyer posted as advertisement. He subsequently attended the auction and was the only bidder. He and the auctioneer called the owner of the property and agreed to a price of \$17,500. When questioned, Ellis indicated the seller was American Bank on behalf of Watson, LLC and the auction sale was a “short sale.” Because the transaction resulted as a bank authorized sale, likely in lieu of a foreclosure, this sale may be in the nature of a distress sale and have factors that distort the market value. Iowa Code § 441.21(1)(b).

Ellis also testified that since the purchase of the property, a new “duralast” roof was put on with a cost of roughly \$8000 to \$9000. Additionally, there has been some interior painting, but Ellis claims it is of sub-par quality. The subject property was rented in 2007 for approximately a year and received \$500 per month. The property is currently vacant and used for personal use only.

The equity comparables Ellis offered are each located within a half a block or immediately adjacent to the subject property.

Address	Sales Date	Sales Price	2010 Assessment	Sale to Assessment Ratio
Subject	8/28/2006	\$17,500	\$36,070	2.06
17 Central Avenue NW	12/6/2005	\$25,500	\$42,150	1.65
19 Central Avenue NW	12/31/1986	\$45,000	\$42,610	0.95
26 Plymouth Street SW	1/8/1993	\$58,000	\$60,910	1.05

Ellis asserts the sales ratio between the three properties compared to his property indicates he is inequitably assessed. Because the sales prices are dated we do not consider them reliable for an equity analysis. Additionally, we note Ellis testified that these properties were different from the subject property in style, size, and condition. For an equity comparison, similar properties must be selected; market values of those properties must be established; then, comparison of the market value to the assessments is made to determine a ratio analysis.

The Board of Review did not offer any evidence.

Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject is inequitably assessed. ~

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."


Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Ellises'

evidence of inequity was incorrectly developed and there was no assertion by the Ellises that the assessor did not uniformly apply an assessing method to similarly situated or comparable property.

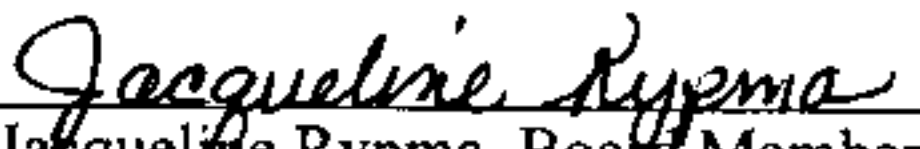
We therefore affirm the assessment of Mark and Tobi Ellis' property as determined by the Plymouth County Board of Review, as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of the property located at 24 Plymouth Street SW, Le Mars, Iowa, of \$36,070 as of January 1, 2010, set by Plymouth County Board of Review, is affirmed.

Dated this 20 day of July, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-20</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature:	